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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,153	11/25/2003	Pat Inglese	21480-RA	7010

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/722,153

Applicant(s)

INGLESE, PAT

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-109 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 15-21, 24-30, 32-39, 47-53, 56-62, 64-71, 79-85, 88-94, 96, 108 and 109 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 8-14,22,23,31,40-46,54,55,63,72-78,86,87,95 and 97-107.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-7,15-21,24-30,32-39,47-53,56-62,64-71,79-85,88-94,96,108, and 109 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the claims are rejected for the following reasons:

Claim 1 recites the limitation "the material reservoir" in line 7. There is insufficient antecedent basis for this limitation in the claim. See paragraph 1.

Claim 33 recites the limitation "the material reservoir" in line 6 and line 11. There is insufficient antecedent basis for this limitation in the claim. See paragraph 1.

Claim 65 recites the limitation "the material reservoir" in line 11. There is insufficient antecedent basis for this limitation in the claim. See paragraph 1.

Claim 108 recites the limitation "the material reservoir" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim. See paragraph 1.

In claim 2, line 3, it is unclear if the four sides each have a top and a bottom or if there are four sides on the top and bottom. Clarity is required.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-7,15,17,19,21,24-30,32 are rejected under 35 U.S.C. 102(b) as being anticipated by LaFleur (US 5,607,237). See figure 1 depicting horizontal reinforcing strips extending around the periphery of the top and column 2, lines 54-56 describing fold lines.

Art Unit: 3727

4. Claims 1,19,21,24-27,33,51,53,56-59,65,81,83,85, and 88-91 rejected under 35 U.S.C. 102(b) as being anticipated by Derby (US 5,924,796).

See figure 6 depicting fold lines.

5. Claims 108 and 109 are rejected under 35 U.S.C. 102(b) as being anticipated by Verbic (US 3,495,762).

Container **10** has a top, a bottom and fold lines substantially parallel to the top and bottom and means **11** for at least partially supporting a portion of the container. The folding portion is a liner to the same degree set forth claim 109.

***Claim Rejections - 35 USC § 103***

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur.

LaFleur teaches the claimed device except is silent regarding reinforcement around the periphery of the opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to additionally apply reinforcement around the periphery of the opening. Doing so ensures the opening remains open during filling.

7. Claims 2-7,17,32,34-39,47-50,64,66-71,79, and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derby '796.

Derby is silent regarding the prismatic shape and the height dimension of the sides being less than the length dimension of the sides. Derby does indicate the bag needs not be of a particular shape at column 2, line 44-48.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a prismatic shape or of a shape wherein the height dimension of the sides being less than the length dimension of the sides since such a modification would

Art Unit: 3727

have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

***Response to Arguments***

8. Applicant's arguments filed August 29, 2005 have been fully considered but they are not persuasive.

Regarding the patent to LaFleur and independent claim 1, fold lines are taught by the patent as set forth in the rejection above. The claim has not been amended to overcome this prior art reference.

Applicant's arguments with respect to independent claims 1,33,65 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

9. Claims 16,18,20,28-30,52,60-62,80,82,84,and 92-94 appear to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3727

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Art Unit: 3727

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH  
November 14, 2005



Robin A. Hylton  
Primary Examiner  
GAU 3727